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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 23rd April, 1994/Vaisakha 3, 1916 (Saka)

THE DAMAN AND DIU VILLAGE PANCHAYATS (AMENDMENT) REGULATION, 1994

No. 3 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

A Regulation further to amend the Goa, Daman and Diu Village Panchayats Regulation, 1962.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title, and Commencement.

1. (*1*) This Regulation may be called the Daman and Diu Panchayats (Amendment) Regulation, 1994.

(*2*) It extends to the whole of the Union territory of Daman and Diu.

(*3*) It shall come into force at once.

Amendment of section 1.

2. In section 1 of the Goa, Daman and Diu Village Panchayats Regulation, 1962 (herein after referred to as the principal Regulation) in sub-section (*1*), the word "Village" shall be omitted.

Amendment of section 2.

3. In section 2 of the principal Regulation:—

(*i*) for clause (*cc*), the following clauses shall be substituted, namely:—

'(*ca* "Collector" means the Collector of Daman or the Collector of Diu;)

(*cb*) "district" means the district of Daman or the district of Diu;

(*cc*) "district Panchayats" means a Panchayat established under section 3A;

(*cd*) "Election Commission" means the Election Commission referred to in section 9A of this Regulation;

(*ce*) "Finance Commission" means the Finance Commission referred to in section 45A of this Regulation;' ;

(*ii*) the existing clause (*ccc*) shall be relettered as clause (*cf*);

(*iii*) clause (*g*) shall be omitted;

(*iv*) for clause (*i*), the following clauses shall be substituted, namely:—

'(*i*) "Panchayat" means village Panchayat or district Panchayat, as the case may be, established under the provisions of this Regulation;

(*ia*) "Panchayat area" means the territorial area of a Panchayat;'

(*v*) after clause (*j*), the following clauses shall be inserted, namely:—

(*ja*) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;';

(*jb*) "President-cum-Chief Counsellor" and "Vice-President-cum-Counsellor" means the President-cum-Chief Counsellor and the Vice-President-cum-Counsellor, as the case may be, of the district Panchayat;'

(vi) for clause (p) the following clause shall be substituted, namely:—

'(*p*) "Ward" means any of the wards into which a Panchayat area is divided under sub-section (*1*) of section 7'.'

Insertion of new section 3A.

4. After section 3 of the principal Regulation, the following section shall be inserted, namely:—

Establishment of District Panchayat.

"3A. There shall be a district Panchayat for the whole of the Union territory from such date as the Administrator may, by notification, appoint".

Amendment of section 7.

5. In section 7 of the principal Regulation,—

(*i*) for sub-sections (*1*) to (*5*), the following sub-sections shall be substituted, namely:—

"(*1*) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and for this purpose, each Panchayat area shall be divided by the Election Commission into territorial constituencies to be known as wards, in such manner that the ratio between the population of each ward and the number of seats allotted to it shall, as far as practicable, be the same throughout the Panchayat area.

(*2*) (*a*) The total number of seats in a village Panchayat shall be determined by order to be published in the Official Gazette, by the Administrator on a scale of one seat for nearly one thousand of the population, subject to a minimum of five seats in such Panchayat.

(*b*) The total number of seats to be filled by persons chosen by direct election from territorial constituencies in the district Panchayat shall be determined by an Order to be published in the Official Gazette by the Administrator;

(*c*) The district Panchayat shall consist of the following members:—

(*i*) elected members for the seats referred to in sub-section (*1*);

(*ii*) the Chairperson of the Panchayats at the village level ;

(*iii*) the member of the House of the People representing the Union-territory.

(3) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes , as the case may be, in every Panchayat. The number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area. The exact number of such seats reserved for the Scheduled Castes and the Scheduled Tribes, as the case may be, shall be determined by the Administrator by order, to be published in the Official Gazette.

(4) Seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes, from among the seats reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes. The Administrator may by order, published in the Official Gazette, shall determine the number of such seats which shall not be less than one-third of the total number of seats reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(5) Seats shall be reserved for women, the number of such seats being determined by order to be published in the Official Gazette by the Administrator, which shall not be less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in a Panchayat.

(6) Seats reserved for the Scheduled Castes, the Scheduled Tribes and Women under sub-sections (3), (4) and (5), as the case may be, shall be allotted by rotation to different wards in such manner as the Election Commission may, by order to be published in the Official Gazette, direct in this behalf; " ;

(*ii*) the existing sub-sections (6) and (7) shall be re-numbered as sub-sections (7) and (8) respectively ;

(*iii*) the existing sub-section (8) shall be omitted.

Insertion of new section 9A.

6. After section 9 of the principal Regulation, the following section shall be inserted namely :—

Election Commission.

9A. (1) With effect from such date as the President may, by notification specify, the Election Commission Constitutued. under section 185 of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 shall be the Election Commission for the superintendence, direction and all control of the preparation of electoral rolls for, and the conduct of elections to the Panchayats in the Union territory of Daman and Diu.

(2) The Administrator shall, when so requested by the Election Commission, make available to that Commission such staff which the Administrator considers necessary for discharge of the functions conferred on the Election Commission by sub-section (1).".

Amendment of section 11.

7. In section 11 of the principal Regulation,—

(*i*) in clause (b) for the word "twenty-five", the word "twenty-one" shall be substituted;

(*ii*) after clause (*j*), the following clauses be added, namely :—

"(*k*) is so disqualified by or under any law for the time being in force for the purposes of elections to the House of the People:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age if he has attained the age of twenty-five years; or

(*l*) is so disqualified by or under any law made by the Parliament.".

Amendment of section 12.

8. In section 12 of the principal Regulation,—

(*i*) for the words "prescribed authority", the word "Administrator" shall be substituted, and

(*ii*) the following proviso shall be added at the end, namely:—

"Provided that before giving any decision on any such question, the Administrator shall obtain the opinion of the Election Commission and shall act according to such opinion.".

Amendment of section 13.

9. In section 13 of the principal Regulation,—

(*i*) in sub-sections (*1*) and (*2*), for the words legislative Assembly of Goal, Daman and Diu" the words "House of the People" shall be substituted;

(*ii*) in sub-section (*2*), for the word, brackets and figure "sub-section (*3*)", the words, brackets and figure "sub-section (*1*)" shall be substituted.

Amendmen of section 15.

10 In section 15 of the principal Regulation, in the second proviso, for the word "three" the word "six" shall be substituted.

Insertion of new section 15A.

11. After section 15A of the principal Regulation, the following new section shall be inserted, namely:—

Prohibition of simultaneous member ship.

"15B (*1*) If a person is elected from more than one wards (whether of a Village Panchayat or of the District Panchayat or of both), he shall by notice in writing signed by him and delivered to the Collector, within ten days from the date, or the later of the dates, on which he is so elected, intimate as to which ward he wishes to serve, and thereupon, his seat in all other wards in which he does not wish to serve shall become vacant.

(*2*) In default of such intimation within the aforesaid period, all his seats, at the expiration of that period, become vacant.

(*3*) Any intimation given under sub-section (*1*) shall be final and irrevocable.".

Amendment of section 16.

12. In section 16 of the principal Regulation,—

(*i*) in sub-section (*1*), for the word "apply" the words "present an election petition" shall be subsituted; and

(*ii*) in sub-section (*2*) for the word "application", the words "election petition" shall be substituted.

Amendment of section 9.

13. In section 19 of the principal Regulation,—

(*i*) for sub-section (*1*), the following shall be substituted, namely:—

"(*1*) at the first meeting of a Village Panchayat or the district Panchayat, as the case may be, to be called on a date fixed by the Administrator,—

(*a*) the members of a village Panchayat shall elect, from amongst themselves, a Chairman and a Vice-Chairman;

(*b*) the elected members of the district Panchayat and the Chairpersons of the Panchayats at the village level shall elect from amongst the elected members of the district Panchayat a Chairperson and a Vice-chairperson to be designated as a President-cum-Chief-Counsellor and Vice-President-cum-Counsellor respectively :

(*b*) in sub-section (*3*),—

(*i*) for the words "original registering authority", the words "last registering authority" shall be substituted;

(*ii*) the following shall be added at the end, namely:—

"and an intimation in this behalf shall be sent to the original registering authority if the last registering authority is not the original registering authority";

(*c*) in sub-section (*5*), after the words "taken possession of the vehicle", the words "from the registered owner" shall be inserted;

(*d*) in sub-section (*6*), for the words and figures "under section 47, make an application", the words and figures "under section 47, or removal of the vehicle to another State, or at the time of conversion of the vehicle from one class to another, or for issue of no objection certificate under section 48, or for change of residence or place of business under section 49, or for the alteration of the vehicle under section 52, make an application" shall be substituted;

(*e*) in sub-section (*10*), after the word "communicate", the words "by registered post acknowledgment due" shall be inserted;

(*f*) for sub-section (*11*), the following sub-sections shall be substituted, namely:—

"(*11*) A registering authority registering the new vehicle, or issuing the duplicate certificate of registration or a no objection certificate or a temporary certificate of registration, or issuing or renewing, a fitness certificate or substituting entries relating to another motor vehicle in the permit, shall intimate the financier of such transaction.

(*12*) The registering authority where it is not the original registering authority, when making entry under sub-section (*1*) or sub-section (*2*), or cancelling the said entry under sub-section (*3*) or issuing the fresh certificate of registration under sub-section (*5*) shall communicate the same to the original registering authority.".

15. In section 52 of the principal Act,— **Amendment of section 52.**

(*i*) in sub-section (*1*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that modification of the engine, or any part thereof, of a vehicle for facilitating its operation by a different type of fuel or source of energy including battery, compressed natural gas, solar power or any other fuel or source of energy other than liquid petroleum gas shall be treated as an alteration but that shall be subject to such conditions as may be prescribed.";

(*ii*) after sub-section (*5*), the following sub-section and *Explanation* shall be inserted, namely:—

'(*6*) No person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle for which approval of the registering authority is required under sub-section (*1*), except with the written consent of the registered owner.

Explanation.—For the purposes of this section, "alteration" means a change in the structure of a vehicle which results in change in its basic feature.'.

Amendment of section 56.

16. In section 56 of the principal Act, after sub-section (*4*), the following proviso shall be inserted, namely:—

"Provided that no such cancellation shall be made by the prescribed authority unless such prescribed authority holds such technical qualification as may be prescribed or where the prescribed authority does not hold such technical qualification on the basis of the report of an officer having such qualifications.".

Amendment of section 57.

17. In section 57 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Any person aggrieved by an order of the registering authority under section 41, 42, 43, 45, 47, 48, 49, 50, 52, 53, 55 or 56 may, within thirty days of the date on which he has received notice of such order, appeal against the order to the prescribed authority.".

Amendment of section 58.

18. In section 58 of the principal Act, in sub-section (*1*), for the words "maximum safe laden weight", the words "maximum gross vehicle weight" shall be substituted.

Amendment of section 63.

19. In section 63 of the principal Act, in sub-section (*2*), after the words "shall supply to the Central Government", the words "if so desired by it" shall be inserted.

Amendment of section 66.

20. In section 66 of the principal Act,—

(*i*) in sub-section (*2*), the following proviso shall be added, namely:—

"Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailor.";

(*ii*) in sub-section (*3*), for clause (*l*), the following clause shall be substituted, namely:—

"(*l*) to any motor vehicle which is operated by electric battery, compressed natural gas or solar energy.".

Amendment of section 67.

21. In section 67 of the principal Act, in sub-section (*1*), after clause (*i*), the following proviso shall be inserted, namely:—

"Provided that the fares and freights in respect of such stage carriages, contract carriages and goods carriages operated by battery, compressed natural gas or solar energy shall be fixed by the owner or operator;".

Amendment of section 68.

22. In section 68 of the principal Act, in sub-section (*3*), after clause (*c*), the following clause shall be inserted, namely:—

"(*ca*) Government to formulate routes for plying stage carriages;".

Amendment of section 71.

23. In section 71 of the principal Act,—

(*a*) the proviso to sub-section (*1*) shall be omitted;

(*b*) in sub-section (*3*), in the proviso to clause (*d*),—

(*i*) in clause (*ii*), the word "or", occurring at the end, shall be omitted;

(*ii*) in clause (*iii*), the word "or" shall be inserted at the end, and after clause (*iii*) as so amended, the following clause shall be inserted, namely:—

"(*iv*) any other class or category of persons, as the State Government may, for reasons to be recorded in writing, consider necessary.";

(c) sub-sections (*4*) and (*5*) shall be omitted.

Amendment of section 75.

24. In section 75 of the principal Act, in sub-section (*1*), for the words "motor cabs to persons desiring to drive the cabs", the words "motor cabs or motor cycles to persons desiring to drive either by themselves or through drivers, motor cabs or motor cycles" shall be substituted.

Amendment of section 80.

25. In section 80 of the principal Act, for the words "Regional Transport Authority", wherever they occur, the words "Regional Transport Authority, State Transport Authority or any prescribed authority referred to in sub-seciion (*1*) of section 66" shall be substituted.

Amendment of section 81.

26. In section 81 of the principal Act, in sub-section (*1*), for the words "without renewal", the words "from the date of issuance or renewal thereof" shall be substituted.

27. In section 88 of the principal Act,—

Amendment of section 88.

(*a*) in sub-section (*8*), for the words "grant a special permit in relation to a vehicle covered", the words "grant a special permit to any public service vehicle including any vehicle covered" shall be substituted;

(*b*) in sub-section (*9*), for the word and figures "and 89", the words, brackets, letter and figures "clause (*d*) of sub-section (*1*) of section 87 and section 89" shall be substituted;

(*c*) sub-section (*10*) shall be omitted;

(*d*) in sub-section (*12*), for the word and figures "and 89", the words, brackets, letter and figures "clause (*d*) of sub-section (*1*) of section 87 and section 89" shall be substituted;

(*e*) sub-section (*13*) shall be omitted.

Amendment of section 91.

28. In section 89 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The State Government shall constitute such number of Transport Appellate Tribunals as it thinks fit and each such Tribunal shall consist of a judicial officer who is not below the rank of a District

Judge or who is qualified to be a Judge of the High Court and it shall exercise jurisdiction within such area as may be notified by that Government.".

Amendment of section 91.

29. In section 91 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The hours of work of any person engaged for operating a transport vehicle shall be such as provided in the Motor Transport Workers Act, 1961.". 27 of 1961.

Amendment of section 99.

30. Section 99 of the principal Act shall be re-numbered as sub-section (*1*) thereof and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Notwithstanding anything contained in sub-section (*1*), when a proposal is published under that sub-section, then from the date of publication of such proposal, no permit shall be granted to any person, except a temporary permit during the pendency of the proposal and such temporary permit shall be valid only for a period of one year from the date of its issue or till the date of final publication of the scheme under section 100, whichever is earlier.".

Amendment of section 109.

31. In section 109 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) If the Central Government is of the opinion that it is necessary or expedient so to do in the public interest, it may by order published in the Official Gazette, notify that any article or process used by a manufacturer shall conform to such standard as may be specified in that order.".

Amendment of section 110.

32. In section 110 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) the size, nature, maximu retail price and condition of tyres, including embossing thereon of date and year of manufacture, and the maximum load carrying capacity;";

(*ii*) after clause (*m*), the following clauses shall be inserted, namely:—

"(*n*) installation of catalytic convertors in the class of vehicles to be prescribed;

(o) the placement of audio-visual or radio or tape recorder type of devices in public vehicles;

(*p*) warranty after sale of vehicle and norms therefor.".

Amendment of section 111.

33. In section 111 of the principal Act, in sub-section (*2*),—

(*a*) in clause (*d*), after the words "by prescribed authorities", the words "and fees to be charged for such test" shall be inserted;

(*b*) clause (*g*) shall be omitted.

Amendment of section 113.

34. In section 113 of the principal Act, in sub-section (*1*), for the words "heavy goods vehicles or heavy passenger motor vehicles", the words "transport vehicles" shall be substituted.